

**United States Department of Labor
Employees' Compensation Appeals Board**

T.W., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Philadelphia, PA, Employer**

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**Docket No. 16-0402
Issued: June 8, 2016**

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

ORDER REMANDING CASE

Before:

CHRISTOPHER J. GODFREY, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
COLLEEN DUFFY KIKO, Judge

On December 15, 2015 appellant filed a timely appeal of a nonmerit decision of the Office of Workers' Compensation Programs (OWCP) dated September 22, 2015 denying her June 24, 2015 request for reconsideration. The Board assigned docket No. 16-0402.

On August 4, 2014 appellant filed a notice of occupational disease (Form CA-2) alleging that she developed right leg pain due to prolonged standing and heavy lifting in the performance of her job duties. OWCP denied this claim by decision dated December 4, 2014. Appellant requested reconsideration on February 23, 2015. By decision dated June 2, 2015, OWCP declined to review the merits of appellant's claim as she failed to submit new evidence or argument in support of her request for reconsideration. Appellant again requested reconsideration on June 24, 2015. On September 22, 2015 OWCP directed appellant to refer to the appeal rights that accompanied the June 2, 2015 decision.

Section 8124(a) of FECA provides that OWCP shall determine and make a finding of fact and make an award for or against payment of compensation.¹ Section 10.126 of Title 20 of the Code of Federal Regulations states that the decision shall contain findings of fact and a statement

¹ 5 U.S.C. § 8124(a); *see Hubert Jones, Jr.*, 57 ECAB 467 (2006); *Paul M. Colosi*, 56 ECAB 294 (2005).

of reasons.² Moreover, OWCP's procedures provide that, if the evidence submitted is not sufficient to require a merit review, OWCP should issue a decision which discusses the evidence submitted, or lack thereof, and explicitly state the basis for the finding of insufficiency.³

In the September 22, 2015 decision, OWCP did not discharge its responsibility to provide appellant a statement explaining the disposition so that appellant could understand the basis for the decision as well as the precise defect and the evidence needed to overcome the denial of his claim.

The case must be returned to OWCP for a proper decision on her July 24, 2015 request for reconsideration. Following this and such further development as OWCP deems necessary, it shall issue an appropriate decision.⁴

IT IS HEREBY ORDERED THAT the September 22, 2015 Office of Workers' Compensation Programs' decision be set aside and the case remanded for further action consistent with this order of the Board.

Issued: June 8, 2016
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

² 20 C.F.R. § 10.126; *see also* O.R., 59 ECAB 432 (2008).

³ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Reconsiderations*, Chapter 2.1602.7(b) (October 2011).

⁴ *See J.Y.*, Docket No. 13-0471 (issued January 2, 2014).